

IN THE UNITED STATES DISTRICT COURT  
FOR THE MIDDLE DISTRICT OF ALABAMA  
NORTHERN DIVISION

WUNDERLICH-MALEC SYS., INC.,	)	
	)	
Plaintiff,	)	
	)	
v.	)	CIVIL ACTION NO. 2:07mc3375-WKW
	)	
EISENMANN CORP.,	)	
	)	
Defendants.	)	

**ORDER**

Now pending before the court is defendant Eisenmann's motion to reconsider (doc. # 9) filed on December 21, 2007. On November 26, 2007, non-party YESAC Alabama Corporation filed a motion to quash subpoena (doc. # 1) because it was served with a subpoena at its principal place of business in Tallassee, Alabama, seeking to compel a representative of YESAC to appear and give a deposition in Crystal Lake, Illinois.

On December 12, 2007, the court granted the motion to quash because it required the deponent "who is not a party or an officer of a party to travel to a place more than 100 miles from the place where that person resides, is employed or regularly transacts business in person." FED. R. CIV. P. 45(3)(A)(ii). *See* Doc. # 8.

In its motion to reconsider (doc. # 9), the defendant asserts that there is no basis to grant the motion to quash because the parties have agreed to take the deposition in Montgomery, Alabama in accordance with FED. R. CIV. P. 45(3)(A)(ii). However, because the parties have agreed to take the deposition at issue in Montgomery, the motion to reconsider is due to be denied as moot.

Accordingly, upon consideration of the motion, and for good cause, it is

ORDERED that the motion to reconsider (doc. # 9) be and is hereby DENIED as moot.

Done this 28<sup>th</sup> day of December, 2007.

/s/Charles S. Coody  
CHARLES S. COODY  
CHIEF UNITED STATES MAGISTRATE JUDGE